

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

BC

002233

In the Matter of)

Amendment of the Rules Governing)
the Conversion of Radiation Patterns)
for AM Broadcast Stations)

Docket No. 21473

MEMORANDUM OPINION AND ORDER

Adopted: July 16, 1981

Released: July 17, 1981

By the Chief, Broadcast Bureau:

1. In the Report and Order in Docket No. 21473, 84 FCC 2d 796, 48 RR 2d 1519 (adopted January 29, 1981), the Commission adopted Rules governing the conversion of AM broadcast directional antenna patterns to standard patterns. The proceeding was begun with a Notice of Inquiry, 66 FCC 2d 901 (1977), and included a Notice of Proposed Rulemaking, FCC 80-538, 45 FR 63516. After adoption of the Report and Order a contract was issued for the development of the parameters for the standard patterns. Work on the contract is proceeding, and the results of more than half of the conversions have been released to the public via Public Notices. Interested parties have 30 days from the release of the Public Notice to comment on the parameters in the Notice.

2. On June 19, 1981, McKenna, Wilkinson & Kittner (MWK), on behalf of its AM radio broadcast clients, submitted a "Request for Revised Public Comment Procedures." Specifically, MWK noted that a given Public Notice may not contain the parameters for all of the stations on a particular frequency, and requested that the 30-day period for comment not begin until the parameters for all stations on a given frequency have been released. MWK states that the staggered release for a given frequency is hampering efforts by AM broadcast licensees to determine whether or not the new standard patterns are correct.

3. On June 24, 1981, the National Association of Broadcasters (NAB) submitted a "Response Concerning Revised Public Comment Procedures." NAB supports the MWK request that the comment period not begin until the parameters for all stations on a given frequency have been released. As does MWK, NAB

states that broadcast engineers must compare their stations' patterns with those of other stations on the same frequency. However, NAB also requests that the 30-day period be increased to 60 days. NAB suggests that the Commission issue a Public Notice announcing when the last standard pattern for a particular frequency has been released, and that the announcement would trigger the 60-day comment period.

4. On July 1, 1981, Dow, Lohnes & Albertson (DLA), on behalf of its AM radio broadcast clients, submitted its "Comments in Support of Revised Public Comment Procedures." DLA supports the MWK and NAB requests, and, in particular, supports the 60-day comment period. DLA states that it has become increasingly difficult for AM licensees to submit thorough comments within the prescribed 30-day period because of the staggered release of the parameters.

5. A. Earl Cullum, Jr., & Associates, has prepared engineering comments on the conversion for many of its clients, including at least one of DLA's clients. The comments note that the conversion has been performed in accordance with the guidelines of the Report and Order. But Cullum goes on to say:

"The proposed pattern may result in increased interference to other facilities on the frequency. Likewise, similar standard patterns developed for other facilities on the frequency may result in added interference to [various stations]. It is my opinion that adoption of this proposed pattern, and all other proposed patterns for stations on the channel should not be finalized without Commission review and station review of the individual services and the overall service to be rendered."

6. On July 10, 1981, NAB submitted a "Further Response Concerning Revised Public Notice Comment Procedures and Request for Expedited Action." In this pleading, NAB reaffirms its earlier requests and, in addition, requests expedited consideration. NAB argues that it is no longer necessary to review the converted patterns as quickly as originally anticipated because, in NAB's opinion, it is unlikely that the International Frequency Registration Board (IFRB) in Geneva, Switzerland, will be able to incorporate the converted patterns into its studies prior to the Second Session of the Region 2 MF Broadcast Conference which begins in November 1981, unless the United States is prepared to commit its own resources to accomplish the task. Implying that the U.S. is not prepared to commit adequate resources, NAB states that expedited review of the converted patterns is no longer necessary.

7. NAB notes the recent News Release (Mimeo No. 001991, released July 6, 1981) in which the Commission announced that it was reducing the number of copies of the results of the conversion to save printing costs, and submits that this action further discourages the dissemination of information concerning the conversion of the patterns. Stating that it would have preferred that the Commission or the conversion contractor notify licensees directly concerning the results of the conversion, NAB argues that the difficulties in obtaining the results of the conversion further support the request for a 60-day comment period.

8. NAB also amplifies its earlier comments regarding the need for studies to determine the changes in predicted levels of interference so that the licensees can evaluate the impact of the conversion of other patterns on their service areas.

9. MWK, NAB, DLA, and Cullum have all misinterpreted the purpose of the comment period. The only purpose for the comment period is to allow study to determine whether a particular conversion is in accordance with the guidelines in Appendix II of the Report and Order. The conversion guidelines involve only the operation which is being converted; they do not involve consideration as to whether theoretical (paper) changes in interference levels on a particular channel occur as a result of the conversion. Indeed, requests for modification of conversion parameters based on showings of such changes in interference levels will not be honored. No station is required to adjust its pattern as a part of the conversion; thus, actual interference levels will remain unaffected by the conversion. Of course, it is possible that post-conversion adjustments may result in changes in interference levels that would not occur prior to conversion. However, throughout this proceeding, the Commission recognized this possibility, and, after detailed consideration, concluded that these possible future changes would be an acceptable cost for the benefit of conversion. Therefore, comments on the converted patterns which discuss the interference situation (present or future) are not pertinent. These comments are untimely, and should have been submitted prior to the adoption of the Report and Order.

10. Interference studies are not required to prepare comments on the conversion, and each conversion can be analyzed without regard to the other conversions. Consequently, there is no need, as suggested in this regard, to change the conversion procedures to begin the comment period only when the last standard pattern parameters on a given frequency have been released.

11. Since interference studies are not required to prepare comments, at least a portion of the rationale for a 60-day comment period is no longer valid. We also note that the conversion is taking longer than expected (because of delays in printing the Public Notices), and that the first Public Notice for

some of the conversions may not be released until September 1981. It is in the interest of the United States to submit the results of the conversion to the IFRB as soon as possible so that the parameters can be officially recognized and included in the IFRB inventory. In addition, the Commission must conduct studies as it prepares for bilateral meetings prior to the Second Session, and for the Second Session itself. Therefore, it is also in the interest of the United States, and the station involved, to provide corrected parameters as soon as possible. In view of these considerations, extending the current 30-day comment period could seriously jeopardize the Commission's preparatory efforts for the Second Session. Accordingly, it is necessary to continue with a 30-day comment period.

12. We take issue with the implication inherent in NAB's second pleading to the effect that the U.S. is not prepared to assist the IFRB in making the necessary changes in the IFRB programs, data base, etc., to permit incorporation of the standard pattern. In fact, the U.S. fully intends to assist the IFRB in this regard; therefore, we believe that the reasoning for an expedited comment period is as strong as ever.

13. NAB noted the reduction in the number of copies of the results of the conversion which are being printed. And we alluded to the delays in printing of the Public Notices in Paragraph 11, above. Originally, we were printing the normal 1000 copies of the results of the conversion. However, we soon discovered that most recipients of this Public Notice did not use it, and the printing of 1000 copies was time-consuming and extremely expensive. Accordingly, we have reduced the printing to 250 copies and are making them available on request from the Office of Public Affairs. We have taken steps to insure that this change does not impede the dissemination of the conversion results. As each report of results is available, we are issuing a Public Notice (with the full 1000-copy printing distributed normally) announcing its availability. And, a few days later, we are issuing another Public Notice (again with the full 1000-copy printing distributed normally) listing the patterns which are covered in each report. We thus expect that those who need the complete results of the conversion will be able to obtain them rapidly, while those who are uninterested do not receive useless copies. Finally, we note that NAB did not file comments in response to either the Notice of Inquiry or the Notice of Proposed Rulemaking in this proceeding. Then, rather than now, was the proper time for NAB to suggest that the Commission or the contractor distribute the results to the individual licensees, a process which would be even more time-consuming than the present process and fail to give adequate notice to other interested parties.

14. We have received several informal requests for extensions of the 30-day period in individual cases, as opposed to the general request discussed in the previous paragraphs. The same considerations apply. Extension of time for those stations whose parameters are released in later Public Notices would

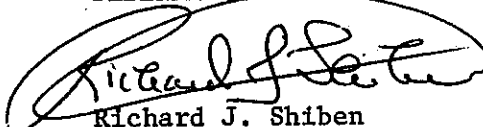
hamper the staff in making its preparations for the Second Session, thereby severely compromising the interests of the United States. Although stations covered in earlier Public Notices could be granted extensions with less impact, the impact would still be considerable. Accordingly, we foresee the routine denial of requests for extensions in individual cases, except in the most compelling circumstances which are unique to an individual pattern.

15. We are aware that there may be, in some instances, errors in the conversion that will not surface during the 30-day comment period. Indeed, some may not surface for many years. Such situations will be handled on a case-by-case basis in the same manner that we have handled similar errors over the years.

16. Accordingly, IT IS ORDERED that the request to begin the comment period only when parameters for all stations on a given frequency have been released IS DENIED.

17. IT IS FURTHER ORDERED that the request to extend the comment period from 30 days to 60 days IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Richard J. Shiben
Chief, Broadcast Bureau